

**§ 5. “Secretary” defined**

As used in this title, the term “Secretary” means the Secretary of the respective department in which the Coast Guard is operating.

(Aug. 4, 1949, ch. 393, 63 Stat. 497.)

HISTORICAL AND REVISION NOTES

This section is definitive and is included to obviate the necessity of spelling out in detail in each section of the bill where the Secretary is referred to, “the Secretary of the Treasury when the Coast Guard is operating in the Treasury Department and the Secretary of the Navy when the Coast Guard is operating as a service in the Navy.” 81st Congress, House Report No. 557.

**CHAPTER 3—COMPOSITION AND ORGANIZATION**

- Sec. 41. Grades and ratings.
- 41a. Active duty promotion list.
- 42. Number and distribution of commissioned officers on active duty promotion list.
- [43. Repealed.]
- 44. Commandant; appointment.
- [45. Repealed.]
- 46. Retirement of Commandant.
- 47. Vice Commandant; appointment.<sup>1</sup>
- [48, 49. Repealed.]
- 50. Vice admirals.
- [50a. Repealed.]
- 51. Retirement.
- 52. Vice admirals and admiral, continuity of grade.
- 53. Office of the Coast Guard Reserve; Director.
- 54. Chief of Staff to President; appointment.
- 55. District Ombudsmen.
- 56. Chief Acquisition Officer.
- 57. Prevention and response workforces.
- 58. Centers of expertise for Coast Guard prevention and response.
- 59. Marine industry training programs.<sup>1</sup>

AMENDMENTS

2010—Pub. L. 111–281, title II, §§204(b), 214(b), title IV, §401(b), title V, §§511(f)(3), 521(b), Oct. 15, 2010, 124 Stat. 2911, 2916, 2930, 2953, 2956, added items 55 to 59, substituted “Number and distribution of commissioned officers on active duty promotion list” for “Number and distribution of commissioned officers” in item 42, “Vice Commandant; appointment” for “Vice Commandant; assignment” in item 47, “Vice admirals” for “Area commanders” in item 50, and “Vice admirals and admiral, continuity of grade” for “Vice admirals, continuity of grade” in item 52, and struck out item 50a “Chief of Staff”.

2006—Pub. L. 109–163, div. A, title V, §597(b), Jan. 6, 2006, 119 Stat. 3283, added item 54.

1999—Pub. L. 106–65, div. A, title V, §557(b), Oct. 5, 1999, 113 Stat. 620, added item 53.

1993—Pub. L. 103–206, title II, §§204(b)(2), 205(b)(2), Dec. 20, 1993, 107 Stat. 2421, 2422, struck out “; retirement” after “assignment” in item 47 and added item 50a.

1982—Pub. L. 97–322, title I, §115(a)(2), Oct. 15, 1982, 96 Stat. 1585, added item 52.

1972—Pub. L. 92–451, §1(8), Oct. 2, 1972, 86 Stat. 756, substituted “Vice Commandant” for “Assistant Commandant” in item 47 and added items 50 and 51.

1963—Pub. L. 88–130, §1(7), Sept. 24, 1963, 77 Stat. 175, added item 41a and struck out item 43.

1960—Pub. L. 86–474, §1(8), May 14, 1960, 74 Stat. 145, substituted “Assistant Commandant; assignment; retirement” for “Assistant Commandant and Engineer in Chief; appointment” in item 47 and struck out items 45, 48, and 49.

<sup>1</sup> So in original. Does not conform to section catchline.

**§ 41. Grades and ratings**

In the Coast Guard there shall be an admiral, vice admirals; rear admirals; rear admirals (lower half); captains; commanders; lieutenant commanders; lieutenants; lieutenants (junior grade); ensigns; chief warrant officers; cadets; warrant officers; and enlisted members. Enlisted members shall be distributed in ratings established by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 497; Aug. 10, 1956, ch. 1041, §§6, 53, 70A Stat. 620, 679; Pub. L. 86–474, §1(1), May 14, 1960, 74 Stat. 144; Pub. L. 92–451, §1(1), Oct. 2, 1972, 86 Stat. 755; Pub. L. 97–417, §2(1), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 98–557, §15(a)(3)(B), (C), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–145, title V, §514(a)(2), Nov. 8, 1985, 99 Stat. 628; Pub. L. 103–337, div. A, title V, §541(f)(4), Oct. 5, 1994, 108 Stat. 2766.)

HISTORICAL AND REVISION NOTES

1949 ACT

Based on title 14, U.S.C., 1946 ed., §§5, 9, 21 (Apr. 12, 1902, ch. 501, §1, 32 Stat. 100; Jan. 28, 1915, ch. 20, §2, 38 Stat. 801; May 18, 1920, ch. 190, §8, 41 Stat. 603; June 5, 1920, ch. 235, §1, 41 Stat. 879; Jan. 12, 1923, ch. 25, §§1, 2, 42 Stat. 1130; July 3, 1926, ch. 742, §§3, 9, 10, 44 Stat. 815, 817).

The grades of vice admiral and rear admiral are added to make provision for the commissioned officer personnel structure of the service as provided for in this revision. The entire rating structure for enlisted men is left to the administrative discretion of the Secretary, as in the past, for reasons of flexibility.

The last two paragraphs of said section 5 are obsolete and have been omitted.

Changes were made in phraseology. 81st Congress, House Report No. 557.

1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
41 .....	14:41. 34:135a(a) (less last sentence, as applicable to temporary appointments).	Aug. 4, 1949, ch. 393, §1(41), 63 Stat. 497. May 29, 1954, ch. 249, §3(a) (less 3d and last sentences, as applicable to temporary appointments), 68 Stat. 157.

AMENDMENTS

1994—Pub. L. 103–337 substituted “chief warrant officers; cadets; warrant officers;” for “chief warrant officers, W–4; chief warrant officers, W–3; chief warrant officers, W–2; cadets; warrant officers, W–1;”.

1985—Pub. L. 99–145 substituted “rear admirals (lower half)” for “commodores”.

1984—Pub. L. 98–557 substituted “members” for “men” in two places.

1983—Pub. L. 97–417 inserted “commodores;” after “rear admirals;”.

1972—Pub. L. 92–451 substituted “vice admirals” for “a vice admiral”.

1960—Pub. L. 86–474 inserted the grade of admiral.

1956—Act Aug. 10, 1956, repealed and reenacted section by general amendment thereby substituting “chief warrant officers, W–4; chief warrant officers, W–3; chief warrant officers, W–2” for “commissioned warrant officers”, and “warrant officers, W–1” for “warrant officers”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–451 effective Oct. 2, 1972, except that continuation boards may not be held until

one year thereafter, see section 3 of Pub. L. 92-451, set out as a note under section 290 of this title.

#### § 41a. Active duty promotion list

(a) The Secretary shall maintain a single active duty promotion list of officers of the Coast Guard on active duty in the grades of ensign and above. Reserve officers on active duty, other than pursuant to an active duty agreement executed under section 12311 of title 10, retired officers, and officers of the permanent commissioned teaching staff of the Coast Guard Academy shall not be included on the active duty promotion list.

(b) Officers shall be carried on the active duty promotion list in the order of seniority of the grades in which they are serving. Officers serving in the same grade shall be carried in the order of their seniority in that grade. The Secretary may correct any erroneous position on the active duty promotion list that was caused by administrative error.

(c) A person appointed in the grade of ensign or above in the Regular Coast Guard shall be placed on the active duty promotion list in the order of his date of rank and seniority.

(d) A Reserve officer, other than one excluded by subsection (a), shall, when he enters on active duty, be placed on the active duty promotion list in accordance with his grade and seniority. The position of such a Reserve officer among other officers of the Coast Guard on active duty who have the same date of rank shall be determined by the Secretary.

(Added Pub. L. 88-130, §1(1), Sept. 24, 1963, 77 Stat. 174; amended Pub. L. 91-278, §1(2), June 12, 1970, 84 Stat. 304; Pub. L. 93-174, §1(1), Dec. 5, 1973, 87 Stat. 692; Pub. L. 97-136, §6(a), Dec. 29, 1981, 95 Stat. 1706; Pub. L. 103-206, title II, §205(a), Dec. 20, 1993, 107 Stat. 2422; Pub. L. 103-337, div. A, title XVI, §1677(b)(1), Oct. 5, 1994, 108 Stat. 3019.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-337 substituted “section 12311 of title 10” for “section 679 of title 10”.

1993—Subsec. (b). Pub. L. 103-206 struck out before period at end of second sentence “, except that the rear admiral serving as Chief of Staff shall be the senior rear admiral for all purposes other than pay”.

1981—Subsec. (a). Pub. L. 97-136, §6(a)(1), substituted “Reserve officers on active duty, other than pursuant to an active duty agreement executed under section 679 of title 10, retired officers, and officers of the permanent commissioned teaching staff of the Coast Guard Academy shall not” for “Retired officers and officers of the permanent commissioned teaching staff of the Coast Guard Academy shall not be included on the active duty promotion list. Reserve officers on extended active duty, other than those serving in connection with organizing, administering, recruiting, instructing, or training the Reserve components or assigned to the Selective Service System, shall”.

Subsec. (b). Pub. L. 97-136, §6(a)(2), inserted exception that rear admiral serving as Chief of Staff shall be senior rear admiral for all purposes other than pay.

Subsec. (d). Pub. L. 97-136, §6(a)(3), substituted “enters on active duty” for “enters on extended active duty”.

1973—Subsec. (a). Pub. L. 93-174 substituted “Retired officers and officers” for “Retired officers, officers” and struck out “, and officers of the Women’s Reserve” after “Coast Guard Academy”.

1970—Subsec. (a). Pub. L. 91-278 inserted “or assigned to the Selective Service System” after “components” in last sentence.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

#### § 42. Number and distribution of commissioned officers on active duty promotion list

(a) MAXIMUM TOTAL NUMBER.—The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 7,200; except that the Commandant may temporarily increase that number by up to 2 percent for no more than 60 days following the date of the commissioning of a Coast Guard Academy class.

#### (b) DISTRIBUTION PERCENTAGES BY GRADE.—

(1) REQUIRED.—The total number of commissioned officers authorized by this section shall be distributed in grade in the following percentages: 0.375 percent for rear admiral; 0.375 percent for rear admiral (lower half); 6.0 percent for captain; 15.0 percent for commander; and 22.0 percent for lieutenant commander.

(2) DISCRETIONARY.—The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign.

#### (3) AUTHORITY OF SECRETARY TO REDUCE PERCENTAGE.—The Secretary—

(A) may reduce, as the needs of the Coast Guard require, any of the percentages set forth in paragraph (1); and

(B) shall apply that total percentage reduction to any other lower grade or combination of lower grades.

#### (c) COMPUTATIONS.—

(1) IN GENERAL.—The Secretary shall compute, at least once each year, the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages established by or under this section to the total number of commissioned officers listed on the current active duty promotion list.

(2) ROUNDING FRACTIONS.—Subject to subsection (a), in making the computations under paragraph (1), any fraction shall be rounded to the nearest whole number.

(3) TREATMENT OF OFFICERS SERVING OUTSIDE COAST GUARD.—The number of commissioned officers on the active duty promotion list below the rank of rear admiral (lower half) serving with other Federal departments or agencies on a reimbursable basis or excluded under section 324(d) of title 49 shall not be counted against the total number of commissioned officers authorized to serve in each grade.

(d) USE OF NUMBERS; TEMPORARY INCREASES.—The numbers resulting from computations under subsection (c) shall be, for all purposes, the authorized number in each grade; except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.